IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE ELEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 14169 of 2004

Between:

P. Hanumantha Reddy S/o P. Shesha Reddy
R/o 45-142/26 Machani Somappa Colony, Kurnool

..... PETITIONER

AND

1 The APSRTC., rep by Vice Chairman-cum-Managing Director,
RTC X Roads, Hyderabad
2 The Regional Manager APSRTC Kurnool Region, Kurnool
3 The Depot Manager Kurnool-II Depot APSRTC., Kurnool

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction, preferable in the nature of Writ of Mandamus declaring the action of the respondents in with holding/recovering the hire charge bill amounts due to the petitioner for plying the bus bearing No. AP 21 V 2646 to make good of the amounts awarded by the Commissioner for Workmen Compensation, Kurnool in W.C. NO. 20/2002 fastening the liability only on the respondent APSRTC by absolving the petitioner and his insurer, even through appeal filed by the respondent APSRTC is pending for consideration before this High Court as illegal, arbitrary violative of Article 14, 19 21 and 300A of Constitution of India and consequently direct the Respondent to pay and continue to pay the said hire charge bill amounts from 15th may 2004 and onwards

Counsel for the Petitioner: MR.K.RATHANGA PANI REDDY

Counsel for the Respondents: MR.P.VINAYAKA SWAMY, S.C. for APSRTC

The Court made the following ORDER:

The petitioner is the owner of a bus bearing No.AP21 V 2646. The said bus was hired by the respondent – Corporation through an agreement dated 25.05.2000. According to the petitioner, a driver was provided for him along with the bus and the bus was kept under the control of the respondent – Corporation for all practical purposes. On 14.12.2001, while the driver driving the bus, an accident occurred and the driver of the bus died. The legal representatives of the said driver approached the Assistant Commissioner of Labour, Kurnool, under the Workmen's Compensation Act, 1923 (for short 'the Act') and claimed compensation for the death of the driver in the said accident. The Assistant Commissioner of Labour awarded Rs.3,33,248/- to them by making the respondent – Corporation liable to pay the entire amount.

The learned counsel for the respondents represented that the Corporation preferred C.M.A.No.2309 of 2004 and it is pending adjudication.

The learned counsel for the petitioner submits that since the petitioner was not made liable under the Act, the respondent–Corporation is not entitled to retain any money due to the petitioner towards hire charges. He further submits that unless and until there is an award against the petitioner, the respondent – Corporation is not entitled to retain any amount due to him towards hire charges.

The learned counsel for the respondents submits that as per Sub clause(4) of Clause 5 of the agreement dated 25.05.2004, the petitioner is liable to pay the compensation in the event of any accident. Therefore, he represents that in view of the above clauses, the respondent – Corporation is entitled to retain the amount payable to the petitioner towards hire charges. Though there is a clause in the agreement making the petitioner liable to pay the compensation amount, there was no award against the petitioner from the Assistant Commissioner of Labour. In the event of the respondent succeeding in the appeal, their remedy is only to go against the petitioner for recovery of the said amount in terms of the agreement, but the respondents cannot retain hire charges payable to the petitioner. On that ground, the writ petition is allowed. The respondent-Corporation is directed to pay the hire charges payable to the petitioner with a liberty to proceed against him, as per the terms of the agreement or any other order in favour of the respondent – Corporation.

11.08.2004

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To

1 The Vice Chairman-cum-Managing Director, APSRTC.,
RTC X Roads, Hyderabad
2 The Regional Manager APSRTC Kurnool Region, Kurnool
3 The Depot Manager Kurnool-II Depot APSRTC., Kurnool
4 Two CD Copies